

# State Law Chart Builder

Customizable employment law answers for HR

## Final Paycheck

- Does your state have a deadline for employers to give final paychecks?

State	Main provisions of law	Covered employers
US	<p>Though there are no federal laws or regulations in this area, except in connection with the payment of federal employees, a number of states require employers to give discharged employees their final paychecks within a certain period of time after they leave work. The time allowed might be anywhere from the last day the employee works to the next regular payday, which could be several weeks.</p> <p>Employers who fail to pay employees are subject to criminal penalties in many states. There are also a number of states that allow employees who sue for unpaid wages to collect exemplary damages—sometimes double the amount due, along with costs and attorney’s fees—in addition to their actual wage losses.</p>	
AL	No law.	There is no provision for this topic in this state.
AK	<p>When employers discharge employees, payment is due within three working days of discharge. When employees quit, payment is due at the next regular payday that is at least three days after notice of termination.</p> <p><i>Citation:</i> AS 23.05.140(b).</p>	All employers.
AZ	<p>When employees are discharged by the employer, wages must be paid within seven working days or the end of the next regular pay period, whichever is sooner. When employees resign, wages should be paid in the usual manner no later than the regular payday for the period during which the resignation occurred. If resigning employees want to receive their checks in the mail, employers must mail them.</p> <p><i>Citation:</i> A.R.S. § 23-353.</p>	All employers.
AR	<p>Employers are required to pay, on demand, all wages due within seven days of the date of termination. If such payment isn't made, wages continue from the date of discharge at the employee's normal rate of pay for up to 60 days. State law also provides that employees employed for a definite period of time who are discharged without cause before the expiration of that time may, in addition to the penalties associated with nonpayment, bring a lawsuit against the employer for damages for wrongful discharge. There must be a demand for payment before the statute's penalties are triggered. Once the demand is made, payment must be made within 7 days from the demand or the penalty is that wages continue from the date of discharge until paid. Also, this only applies to discharge and not to voluntary terminations.</p> <p><i>Citation:</i> Ark. Code Ann. § 11-4-405.</p>	All employers.

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CA	<p>If an employee is discharged, all wages earned and unpaid at the time of discharge are due and payable immediately. The final payment must include an unused, accrued vacation at the employee's final rate of pay. If an employee without a written contract for a definite period quits, wages are payable within 72 hours of quitting, but if 72 hours' notice is given by the employee, payment must be made at quitting time. Every employee who is discharged shall be paid at the place of discharge, and every employee who quits shall be paid at the office or agency of the employer in the county where the employee has been performing labor. However, an employee who quits without providing a 72-hour notice shall be entitled to receive payment by mail if he so requests and designates a mailing address. In that situation, the date of the mailing constitutes the date of payment for purposes of the requirement to provide payment within 72 hours of the notice of quitting. If an employer willfully fails to pay any wages of an employee who quits or is discharged, the employer must continue to pay the employee's wages as a penalty from the due date until paid or until an action is brought to enforce payment for up to 30 days. Employers that lay off a group of employees by reason of termination of seasonal employment in the curing, canning, or drying of fish, fruits, or vegetables must pay the employees within 72 hours, and payment must be made by mail if requested. An employer that lays off a group of motion picture employees whose unusual or uncertain employment terms require special computation of wages may pay within such reasonable time as is necessary for computation of payment. Reasonable time may not exceed 24 hours, excluding Saturday, Sunday, and holidays. Payment may be mailed, and the mailing date is the date of payment. Those rules don't apply to laid-off oil drilling employees.</p> <p><i>Citation:</i> Cal. Lab. Code §§ 201, 201.5, 201.7, 202, 203, 208, 213(d), 227.3, 2926, and 2927.</p>	<p>Private employers: Johnson v. Arvin-Edison Water Storage Dist. (2009) 174 Cal.App.4th 729, 736.</p>
CO	<p>The Colorado Wage Claim Act requires that when separation occurs at the volition of the employer, the employer must pay all unpaid wages immediately. When a separation is by volition of the employee, wages must be paid on the next regularly scheduled payday. An employer who fails to pay an employee all earned, vested, and determinable wages within 14 days after written demand is made is liable for the total of any unpaid wages, plus the greater of (a) 125 percent of the first \$7,500 of wages due plus 50 percent of any wages due in excess of \$7,500, or (b) the employee's wages for each day, up to 10 days, "until such payment or other settlement satisfactory to the employee is made." If the failure to pay is willful, the penalty is increased by 50 percent.</p> <p><i>Citation:</i> C.R.S. § 8-4-109.</p>	<p>Private employers.</p>

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CT	When employees voluntarily quit, employers must pay the wages in full not later than the next regular payday. When employers discharge employees, the employers must pay the wages in full not later than the business day next succeeding the date of discharge. When work of employees is suspended as a result of a labor dispute or when employees for any reason are laid off, employers must pay in full not later than the next regular payday. <i>Citation:</i> Conn. Gen. Stat. § 31-71c.	All employers.
DC	In discharges, final paychecks must be provided the next working day unless otherwise agreed to in a collective bargaining agreement or unless the employee had responsibility for the employer's money, in which case the employee may be paid within four days to permit the employer to check the accuracy of accounts. In resignations or quitting, final paychecks must be provided the earlier of the next regular payday or within seven days unless otherwise agreed to in an employment contract for a period of more than 30 days. In suspensions because of a labor dispute, paychecks for earned wages must be issued by the next regular payday. <i>Citation:</i> D.C. Code § 32-1303.	Private employers.
DE	Employers must pay employees who are discharged or who voluntarily quit on the next regular payday. <i>Citation:</i> 19 Del. C. § 1103.	Private employers.
FL	No state law. (Effective March 1, 2010, Miami/Dade County passed a Wage Payment Ordinance requiring employers to pay employees within a reasonable time (defined as 14 calendar days and no later than 30 days.)) <i>Citation:</i> Chapter 22 of the Code of Miami-Dade County Florida.	There is no provision for this topic in this state.
GA	There is no special provision for payment upon termination. However, Georgia law provides for payments on dates chosen by the employer, provided that each month is divided into at least two equal pay periods. <i>Citation:</i> O.C.G.A. § 34-7-2.	All employers.
HI	When employees are discharged either with or without cause, employers must pay at the time of discharge, or if conditions prevent immediate payment, not later than the working day following discharge. When employees quit or resign, employers must pay no later than the next regular payday except that if the employee gives at least one pay period's notice of intention to quit, the employer must pay at the time of quitting. <i>Citation:</i> HRS § 388-3.	Private employers.

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ID	Employers must pay separated employees on the next regularly scheduled payday or within 10 days of the layoff or termination, whichever is earlier. If employees make a written request for earlier payment, they must be paid within 48 hours of the receipt of the request. <i>Citation:</i> Idaho Code § 45-606.	All employers.
IL	Wages must be paid in full at the time of separation if possible but no later than the next regular payday. Payment must be made by mail if an employee so requests in writing. <i>Citation:</i> 820 ILCS 115/5.	All private employers and local governments but not state and federal governments.
IN	Except for railroad employees, a terminated employee's final paycheck becomes due and payable at the regular payday for the pay period in which the separation occurred. If an employee leaves employment voluntarily, an employer is not required to pay the employee an amount due the employee until the next usual and regular day for payment of wages, as established by the employer. If an employee leaves employment voluntarily without the employee's whereabouts or address being known to the employer, the employer is not liable for damages until: (1) 10 business days have elapsed after the employee has made a demand for the wages due him; or (2) the employee has furnished the employer with the employee's address where the wages may be sent or forwarded. <i>Citation:</i> I.C. §§ 22-2-9-2 and 22-2-5-1.	All employers, except railroad employers in the event of terminated employees.
IA	Employers must pay employees whose employment has been suspended or terminated no later than the employer's next regular payday for the pay period in which the wages were earned. <i>Citation:</i> Iowa Code § 91A.4.	All employers.
KS	Upon termination, whether voluntary or involuntary, employees must be paid their final paycheck no later than the next regularly scheduled payday when they would have received payment for those wages had employment not ended. Payment must either be through regular pay channels or by mail postmarked within the deadline if requested by the employee.  <i>Citation:</i> Kan. Stat. Ann. § 44-315(a).	All employers. <i>Citation:</i> Kan. Stat. Ann. § 44-313.

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KY	Employees who voluntarily quit or are discharged must be paid no later than the next normal pay period or in 14 days, whichever occurs last. Any employer who violates this provision shall be assessed a civil penalty of not less than one hundred dollars or more than one thousand dollars for each offense and shall make full payment to the employee by reason of the violation. However, no statutory penalties may be assessed if a worker is included in a specific list enumerated in KRS Section 337.010. <i>Citation:</i> KRS §§ 337.055, 337.010, 337.990(3).	All employers.
LA	Employees must be paid by the next regular payroll date but not later than 15 days after separation for any reason. Failure to comply subjects employers to liability for 90 days' wages at the employee's daily rate or else full wages from the time the employee demands payment until the employer pays, whichever is less, plus attorney fees and costs. The statute was amended in 2014 to add a good faith exception for penalty wages. If a court finds that the employer's dispute over the amount of wages due was in good faith, but the employer is subsequently found by the court to owe the amount in dispute, the employer can only be liable for the amount of wages in dispute (rather than the full 90 days). <i>Citation:</i> La. Rev. Stat. Ann. §§ 23:631 and 23:632.	All employers.
ME	Employers must give a final paycheck to a separated employee within a "reasonable time" of the employee's written demand — either within two weeks or on the next regularly scheduled payday, whichever is soonest. <i>Citation:</i> 26 M.R.S.A. § 626.	All employers.
MD	Discharged employees and employees who quit must be paid by the next regular payday. <i>Citation:</i> Md. Code Ann., Lab. & Empl. § 3-505.	All employers.
MA	Employees who are terminated involuntarily must receive their final paychecks on the day of termination. Employees who leave voluntarily must be issued their final checks on the next regular payday, or in the absence of a regular payday, the following Saturday. All accrued, unused vacation time must be treated as wages and included in the final paycheck. <i>Citation:</i> Mass. Gen. Laws ch. 149, § 148.	All employers.

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MN	Employees must be paid at the next regularly scheduled payroll time for voluntary termination, unless the next scheduled payday is less than five calendar days from the employee's final day. In that case, full payment may be delayed to the second regularly scheduled payday, but it must be paid within 20 calendar days of the employee's final day. Employees may be subject to a collective-bargaining agreement containing different timing provisions. Those involuntarily discharged must be paid within 24 hours after demand. If the employee requests his or her paycheck be mailed, it is considered paid when postmarked. <i>Citation:</i> Voluntary: Minn. Stat. § 181.14. Involuntary: Minn. Stat. § 181.13.	All employers.
MS	No statute.	There is no provision for this topic in this state.
MI	Employers must pay all wages earned as soon as the amount can with due diligence be determined. <i>Citation:</i> MCL 408.475.	All employers.
MO	Wages are due and payable on the day of the termination, and employers are required to pay within seven days from the date an employee makes a written request for payment. The law doesn't apply to employees whose remuneration is based primarily on commissions and whose duties include collection of accounts, care of stock or merchandise, and similar activities and when an audit is necessary or customary in order to determine the net amount due. <i>Citation:</i> RSMo. § 290.110.	Private employers.
MT	When employees quit, employers must pay all unpaid wages on the next regular payday or 15 days from the date of separation, whichever occurs first. When employees are discharged for cause or laid off, unpaid wages are due immediately upon separation unless the employer has a written personnel policy governing the employment that extends the time for payment of final wages to the employee's next regular payday or 15 days from separation, whichever occurs first. <i>Citation:</i> Mont. Code Ann. § 39-3-205(2).	All employers.

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NE	<p>When employers (other than political subdivisions of the state) separate employees from the payroll, all unpaid wages become due on the next regular payday or within two weeks of the termination, whichever is sooner. In the case of a political subdivision, the employee is due all unpaid wages within two weeks of the next regularly scheduled meeting of the governing body of the political subdivision if the employee is separated at least one week prior to such a meeting. If an employee of a political subdivision is separated from the payroll less than one week prior to the next regularly scheduled meeting, all unpaid wages are due within two weeks of the following regularly scheduled meeting of the governing body of the political subdivision.</p> <p><i>Citation:</i> Neb. Rev. Stat. § 48-1230.</p>	All employers.
NV	<p>When an employer discharges an employee, the wages and compensation earned and unpaid at the time of discharge are immediately due and payable. If an employee quits, the wages and compensation due must be paid no later than the day on which the employee would have regularly been paid or seven days after the employee's resignation, whichever is earlier. If an employer fails to pay a discharged employee within three days of the employee's discharge or fails to pay a resigning employee on the day the wages are due, the employee's wages continue at the same rate from the day he resigned, quit, or was discharged until paid or for 30 days, whichever is less.</p> <p><i>Citation:</i> NRS 608.020, 608.030, and 608.040.</p>	All employers, except that NRS 608 does not apply to public employment.
NH	<p>Employers who discharge employees must pay all wages owed within 72 hours either by physically giving payment to the employee or by mailing the payment to the employee at the discretion of the employee. Employers must pay in full the wages of an employee who quits no later than the next regular payday except when the employee gives at least one pay period's notice of intention to quit or the employer doesn't permit the employee to work the period of notice, in which event the payment must be made within 72 hours. When work is disputed as a result of a labor dispute or an employee is laid off, wages must be paid no later than the next regular payday. An employer who willfully and without good cause fails to pay an employee's wages within the required timeframe is additionally liable to the employee for liquidated damages in the amount of 10 percent of the unpaid wages for each day that such failure continues, excluding Sundays and holidays, or in an amount equal to the unpaid wages, whichever is smaller.</p> <p><i>Citation:</i> N.H. Rev. Stat. Ann. § 275:44 and Dept. of Labor Reg. Lab 803.01(e).</p>	All employers.

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NJ	<p>When employment is terminated or suspended, employees must be paid all wages no later than the regular payday for the pay period during which the employee's termination, suspension, or cessation of employment (whether temporary or permanent) took place. When any employee is suspended as a result of a labor dispute that involves those employees who make up payrolls, the employer may have an additional 10 days in which to pay such wages. Employees who are paid in full or in part on the basis of an incentive system must be paid a reasonable approximation of the wages due until the exact amounts can be calculated.</p> <p><i>Citation: N.J.S.A. 34:11-4.3.</i></p>	All employers.
NM	<p>When employers discharge employees, unpaid wages are due immediately upon demand and must be paid within five days of discharge if the compensation is for a fixed and definite amount and not based on a task, piece, commission, or other method of calculation. In other cases of discharged employees, the settlement and payment of wages must be made within 10 days of discharge. If wages aren't paid on time, they will continue from the date of discharge at the same rate the employee received at the time of discharge for a maximum of 60 days. The employee must establish that he made demand within a reasonable time and was refused. When employees without a written contract for a definite period quit, wages must be paid on the next payday. The law doesn't prohibit employers from making immediate payment.</p> <p><i>Citation: NMSA 1978, §§ 50-4-4 and 50-4-5 (1975).</i></p>	All employers except employers of domestic labor in private homes and employers of livestock and agricultural labor.
NY	<p>Employees who are discharged and those who quit must be paid on the next regular payday or by mail if requested by the employee. Commissions owed to sales representatives must be paid within five business days after the contract ends or five business days after they become due if earned but not due when the contract ends. The definition of a "sales representative" in the statute is limited to an independent contractor and doesn't include a salaried or commissioned employee.</p> <p><i>Citation: N.Y. Labor Law §§ 191(3) and 191-c.</i></p>	Private employers.
NC	<p>Employers must pay all outstanding wages on or before the next payday immediately following termination. Wages based on bonuses or commissions must be paid on the first regular payday after the amount becomes calculable.</p> <p><i>Citation: N.C. Gen. Stat. § 95-25.7.</i></p>	Private employers.



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ND	Wages are due and payable at the regular payday established in advance by the employer for the periods worked, regardless of whether the separation is voluntary or involuntary. <i>Citation:</i> N.D.C.C. § 34-14-03.	All employers.
OH	Ohio does not specifically have a statute covering final paychecks. However, Ohio's wage payment statute implicitly requires final paychecks to be provided to a separated employee by the first regularly scheduled payday following the employee's separation. Liquidated damages of 6% or \$200, whichever is greater, are recoverable by the employee if wages go unpaid 30 days past the regularly scheduled payday. With respect to vacation leave, sick leave, other leave time, or bonuses, which are payable as wages upon the employee's separation in accordance with an employer's policy or other agreement (and therefore have no regularly scheduled payday), liquidated damages of 6% or \$200, whichever is greater, are recoverable by the employee if those sums go unpaid 60 days past the date of the employee's separation. <i>Citation:</i> Ohio Rev. Code § 4113.15.	The law applies to every private employer generally, stated in the statute as "every individual, firm, partnership, association, or corporation doing business" in Ohio. <i>Citation:</i> Ohio Rev. Code § 4113.15.
OK	Employers must pay wages in full, less offsets, at the next regular designated payday established for the pay period in which the work was performed. Payment must be made by regular pay channels or by certified mail, postmarked within the deadlines if requested by the employee. Collective bargaining agreements may supersede this section. <i>Citation:</i> Okla. Stat. Title 40 § 165.3.	All employers.
OR	When employees are discharged or when employment is terminated by mutual agreement, all wages earned and unpaid are due not later than the end of the first business day after the discharge or termination. When employees quit giving 48 hours' or more notice, wages are due on the employee's last working day. If employees quit without giving at least 48 hours' notice, wages are due in five days or on the next payday, whichever occurs first. If the employee quits without 48 hours' notice and is responsible for providing time records, the employer must, within five days, pay the estimated wages due. Once the employee provides time records, the employer must pay all wages due and owing within five days. <i>Citation:</i> ORS 652.140.	All employers.
PA	Final paychecks are due on the next regular payday. <i>Citation:</i> 43 P.S. § 260.5.	All employers.

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RI	The unpaid wages of a discharged employee become due on the next regular payday. <i>Citation:</i> R.I.Gen.Laws § 28-14-4(a).	All employers.
SC	Employees must receive their final paycheck within 48 hours of the time of separation or the next regularly scheduled payday, which may not exceed 30 days. <i>Citation:</i> S.C. Code Ann. § 41-10-50.	All employers.
SD	Whenever an employee is taken from the payroll, unpaid wages or compensation are due no later than the next regular stated payday or as soon thereafter as the employee returns all property in the employee's possession that belongs to the employer. The rule is the same for employees without written contracts for definite periods who quit or resign employment. <i>Citation:</i> SDCL § 60-11-10 and § 60-11-11.	All employers.
TN	Tennessee employees who are laid off, terminated, or quit must be paid their final wages in full at the next regular payday, not to exceed 21 days from the date of their discharge or termination. <i>Citation:</i> Tenn. Code Ann. § 50-2-103(g).	Private employers with at least five employees.
TX	Employers must pay in full discharged employees not later than the sixth day after the date of discharge. Employers must pay in full employees who leave employment for reasons other than discharge no later than the next regularly scheduled payday. <i>Citation:</i> Tex. Labor Code § 61.014.	All employers.
UT	When employers discharge employees, unpaid wages must be paid within 24 hours of the separation. When employees resign, unpaid wages must be paid on the next regular payday. If a strike causes work to stop, unpaid wages must be paid on the next regular payday. <i>Citation:</i> Utah Code §§ 34-28-1 and 34-28-5.	Private employers except those involved in farming, agricultural pursuits, household domestic service or other employment in which there is a written agreement providing different terms.
VT	Employees who leave voluntarily must be paid on the last regular payday or if there is no regular payday, on the following Friday. Employees who are discharged must be paid within 72 hours. <i>Citation:</i> 21 V.S.A. § 342(b).	All employers.

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VA	Following termination, an employee shall be paid all wages or salaries due him for work performed prior thereto. Such payment shall be made on or before the date on which he would have been paid for such work had his employment not been terminated. <i>Citation:</i> VA Code § 40.1-29.(A)(1).	All employers operating a business.
WA	When employment is terminated either voluntarily by the employee or by action of the employer, the wages due must be paid "at the end of the established pay period" unless an existing collective bargaining agreement provides otherwise or unless the worker is engaged in employment that involves working interchangeably for several employers in the same industry and the employers establish a plan for the weekly payment of wages at a central place and with a schedule that provides for at least one payday each week. Employers may not withhold or divert any portion of a final paycheck unless specific requirements apply. <i>Citation:</i> Wash. Rev. Code § 49.48.010.	All employers.
WV	Effective June 11, 2015, employers must pay discharged employees all wages on or before the next regular payday on which the wages would be otherwise due and payable except: fringe benefits that are provided to an employee pursuant to an agreement between the employee and the employer and that are due, but pursuant to the terms of the agreement, are to be paid at a future date or upon additional conditions shall be paid according to the agreement. "Business day" means any day other than Saturday, Sunday, or legal holiday. <i>Citation:</i> W. Va. Code § 21-5-4.	
WI	Employees who quit or who are discharged must be paid in full by no later than the next regular payday or the date required under Wis. Stat. § 109.03(1), whichever is earlier. Employees separated as a result of the employer merging, liquidating, or otherwise disposing of the business, ceasing business operations, or relocating all or part of the business, must be paid at the usual place of payment within 24 hours of the time of separation. <i>Citation:</i> Wis. Stat. § 109.03.	All employers.

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WY	Whenever an employee quits or is terminated, the employee must be paid final wages on the next regularly scheduled payday, or at a time specified under the terms of a collective bargaining agreement between the employer and the employee. This rule does not apply to a sales agent paid commissions where the amount owed may not be determinable without an audit. State employees and officers must also be paid on or before the next regular day upon which they would have received the pay if they were still employed. <i>Citation:</i> State employees: Wyo. Stat. § 9-3-101(f). All other employees: Wyo. Stat. § 27-4-104.	All employers.

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## Payout of Vacation/Sick Pay

- Does your state require employers to pay earned vacation and/or sick days upon separation? Is there a "use it or lose it" policy?

State	Requirements	"Use it or lose it" policy	Covered employers
US	<p>Although there is no federal law that entitles private sector employees to paid or unpaid vacation, most employers do give employees a paid vacation, and most employees consider it to be one of their most important benefits. There is a growing body of state law—both statutes and court decisions—that does govern how employers administer vacation time, including whether and how much employees must be paid at termination for accrued but unused vacation. Employers must know their own state laws in order to develop a comprehensive policy covering eligibility, accrual, carryover, forfeiture, administration, pay upon termination, and integration of vacation policy with other state laws, and to ensure strict compliance and consistency of administration. The policy should be communicated to employees at the time they begin work (in a number of states, this is required).</p> <p>Some state laws consider vacation time the equivalent of wages; therefore, it must be paid at termination. In some states, court decisions have said that if an employer offers paid vacation and the employee has earned it by working through the accrual period, the time must be compensated at termination. A number of states prohibit accrued vacation time from being lost ("forfeited") for almost any reason. Some states do not require that unused vacation be compensated at all. Some employers opt to compensate unused vacation regardless of the law, or under certain specified circumstances.</p>		
AL	<p>The Court of Appeals in Alabama has ruled that offered vacation time is a form of compensation for services and that once the services are rendered, the right to the promised compensation is vested just as are wages or other forms of compensation. Forfeiture at termination is allowed, but must be stated explicitly in the leave policies. <i>Citation: Amoco Fabrics and Fibers Co., Inc. v. Hilson</i>, 669 So.2d 832 (Ala., 1995).</p>		There is no provision for this topic in this state.
AK	No requirements.	No laws prohibit such policies.	There is no provision for this topic in this state.
AZ	<p>Employers who have a policy or practice of paying employees for accrued vacation or sick days upon separation must treat the pay as wages and comply with the timely payment requirements of A.R.S. § 23-353.</p> <p><i>Citation: A.R.S. § 23-350</i> (defining "wages" as "nondiscretionary compensation due an employee in return for labor or services rendered by an employee for which the employee has a reasonable expectation to be paid").</p>		All employers.

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AR	<p>Employees or beneficiaries of any agency of the state shall receive compensation for accumulated unused sick leave upon retirement or death, never to exceed \$7,500. Municipal firefighters shall receive compensation for accumulated sick leave upon retirement or death, to be paid at the regular rate of pay at the time of death or retirement, not to exceed three months' salary unless the city, by ordinance, authorizes more, but in no event to exceed 4 1/2 months' salary. Municipal police officers shall receive compensation for accumulated sick leave upon retirement or death, not to exceed 60 days' salary unless the city, by ordinance, authorizes more, but in no event to exceed 90 days salary.</p> <p><b>Citations: State government:</b> Ark. Code Ann. § 21-4-501.</p> <p><b>Municipal firefighters:</b> Ark. Code Ann. § 14-53-108.</p> <p><b>Municipal police officers:</b> Ark. Code Ann. § 14-52-107.</p> <p><b>Public officers and employees:</b> Ark. Code Ann. § 21-4-205.</p>	<p><b>School districts:</b> If teachers leave their positions for any reason before the end of the school term, their employing districts may deduct from their last paychecks any days of sick leave used but not earned. School districts are permitted, but not required, to compensate teachers for unused sick leave. If a district decides to compensate for unused sick leave, the funds must come from the district's salary fund. The amount paid will be included in meeting the district's annual requirements for payment of teachers' salaries.</p> <p><b>Citations:</b> Ark. Code Ann. §§ 6-17-1204 and 6-17-1207; <i>Turnbough v. Mammoth Spring Sch. Dist. No. 2</i>, 349 Ark. 341, 78 S.W.3d 89 (2002).</p>	<p>State government, municipal fire departments, municipal police departments, and public school districts under various statutes.</p>

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- Does your state require employers to pay earned vacation and/or sick days upon separation? Is there a "use it or lose it" policy?

State	Requirements	"Use it or lose it" policy	Covered employers
CA	<p>Unless a collective bargaining agreement provides otherwise, upon termination, all vested paid vacation time provided by a contract of employment or employer policy that isn't yet taken on termination must be paid to the employee as wages at the employee's final rate. The right to paid vacation constitutes deferred wages for services rendered, and a proportionate part of the vacation time becomes vested throughout the employment period. "Paid time off" (which includes both vacation and sick leave) is treated the same as vacation.</p> <p><i>Citation:</i> Cal. Lab. Code § 227.3.</p>	<p><b>Vacation or paid time off:</b> Use it or lose it is not permitted. Employment contracts and employer policies may not provide for forfeiture of vested vacation time or "paid time off" on termination of employment. There is an exception for employees under a collective bargaining agreement; the "use it or lose it" policy may apply if it is part of the agreement. The collective bargaining agreement with the union must clearly and unmistakably waive the employees' rights to vacation pay, otherwise the employer is liable and must pay terminated employees for unpaid pro rata vacation time.</p> <p><i>Citations:</i> Cal. Lab. Code § 227.3; <i>Choate v. Celite Corp.</i>, 215 Cal. App. 4th 1460 (Cal. App. 2d Dist. 2013).</p> <p><b>Sick leave:</b> An employer is not required to provide compensation to an employee for accrued, unused paid sick days upon termination. However, if an employee separates from an employer and is rehired by the employer within one year from the date of separation, previously accrued and unused paid sick days shall be reinstated. An employer is not required to reinstate accrued paid time off to an employee that was paid out at the time of termination, resignation, or separation of employment.</p> <p><i>Citation:</i> Cal. Lab. Code, § 246.</p>	All employers.

# State Law Chart Builder

Customizable employment law answers for HR

## Payout of Vacation/Sick Pay

- Does your state require employers to pay earned vacation and/or sick days upon separation? Is there a "use it or lose it" policy?

State	Requirements	"Use it or lose it" policy	Covered employers
CO	<p><b>Vacation:</b> Vacation pay earned in accordance with an agreement between the employee and employer is considered wages under the Colorado Wage Protection Act (WPA). Where the separation occurs at the volition of the employer, any accrued but unused vacation pay must be paid immediately upon separation. When the separation is by volition of the employee, any accrued but unused vacation pay must be paid on the next regularly scheduled payday.</p> <p>In 2021, the Colorado Supreme Court held that "all earned and determinable vacation pay must be paid upon separation and that any agreement purporting to forfeit earned vacation is void." Thus, an employer that provides paid vacation for an employee must pay, upon separation from employment, all vacation pay earned and determinable in accordance with the terms of any agreement between the employer and the employee.</p> <p><i>Citation: <u>Nieto v. Clark's Market</u>, 2021 CO 48, 2021 Colo. LEXIS 423, 2021 WL 2414327.</i></p> <p><b>Sick leave:</b> Sick leave does not</p>	<p><b>Vacation:</b> A 2021 Colorado Supreme Court decision appears to invalidate use-it-or-lose-it vacation policies in the state. The court discussed the Colorado Department of Labor and Employment's Division of Labor Standards and Statistics (DOL) 2019 rules, which effectively invalidated use-it-or-lose-it vacation policies, and stated the new rules were "consistent with the statute's purpose, language, structure, and legislative history." Thus, the terms of an agreement between an employer and employee will dictate when vacation pay is "earned." In order to avoid a potential lawsuit, employers may consider implementing a maximum accrual policy instead of a use-it-or-lose-it policy.</p> <p><i>Citation: Nieto v. Clark's Market, 2021 CO 48, 2021 Colo. LEXIS 423, 2021 WL 2414327.</i></p> <p><b>Sick leave:</b> The issue is not directly addressed by the WPA. However, sick leave is not included in the definition of wages under the WPA. Therefore, a "use-it-or-lose-it" sick leave policy is probably legal.</p>	Private employers.



# State Law Chart Builder

Customizable employment law answers for HR

## Payout of Vacation/Sick Pay

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State	Requirements	"Use it or lose it" policy	Covered employers
	fall within the definition of wages under the Colorado WPA. Therefore, there is no obligation to pay accrued but unused sick leave when the employee separates from employment. <i>Citations:</i> C.R.S. § 8-4-101(8)(a)(III), <i>Hartman v. Freedman</i> , 591 P.2d 1318, 1321 (Colo. 1979).		
CT	Employers are required to pay earned vacation and/or sick days upon separation if they have a policy or collective bargaining agreement requiring such pay. <i>Citation:</i> Conn. Gen. Stat. § 31-76k.	Policy allowed.	All employers.
DC	No provisions address payout of vacation/sick pay, but according to the D.C. Court of Appeals, leave time is a form of compensation and once vested is owed. In the absence of an agreement to the contrary, such compensation is due at termination. D.C.'s mandatory paid sick leave law provides that leave earned pursuant to the statute is not payable upon termination of employment. <i>Citations:</i> <i>Jones v. District Parking Management Co.</i> , 268 A.2d 860 (D.C. 1970); <i>National Rifle Association v. John C. Ailes, et al.</i> , 428 A.2d 816 (D.C. 1981); D.C. Code § 32-131.02 (paid sick leave).	No provisions address "use it or lose it" policies, but the D.C. Court of Appeals has ruled that employees who are notified expressly that there is a limit to the amount of leave time they may accrue and who continue to work without protest, have accepted the new terms of employment.	There is no provision for this topic in this state.

# State Law Chart Builder

Customizable employment law answers for HR

## Payout of Vacation/Sick Pay

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State	Requirements	"Use it or lose it" policy	Covered employers
DE	Vacation pay is considered a benefit or wage supplement. Thus, employers must pay all vacation, holiday pay, and sick pay within 30 days of when it's due. Compensation for such wage "supplement" is by agreement only. A written policy, such as one embodied in a handbook, may be sufficient to create a compensation obligation. Where such a duty exists, payment must be made within 30 days of when it is due. In that case, an employee who leaves the payroll must be paid for accrued, unused time, in accordance with the employer's accrual plan. <i>Citations: DE Code Tit. 19 §§ 1108-1109; GMC v. Local 435, 546 A.2d 974 (1988).</i>	Policy allowed.	Private employers.
FL	No law.		There is no provision for this topic in this state.
GA	No statutory provisions address this issue. However, Georgia state courts routinely hold that even though employee handbooks that lack a definite term of employment cannot create contracts of employment, benefit policies contained in employee handbooks can nonetheless create a contractually enforceable right to benefits, including, but not limited to, earned vacation and sick leave. Accordingly, employers must pay vested vacation and/or sick leave benefits upon separation, absent a lawful provision in the employer's handbook that provides for forfeiture of the otherwise earned benefit under certain conditions. Georgia courts also have held that employers may lawfully place conditions that affect how benefits are "earned" or paid out (such as through "use it or lose it policies"), as long as these conditions are clearly and unambiguously expressed in the employer's handbook. <i>Citations: Shannon v. Huntley's Jiffy Stores, Inc., 174 Ga. App. 125, 329 S.E.2d 208 (1985) and Superior Insurance Co. v. Browne, 395 S.E.2d 611 (Ga. Ct. App. 1990).</i>	No laws prohibit such policies.	There is no provision for this topic in this state.

# State Law Chart Builder

Customizable employment law answers for HR

## Payout of Vacation/Sick Pay

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State	Requirements	"Use it or lose it" policy	Covered employers
HI	<p><b>Private sector:</b> The Hawaii Court of Appeals ruled that vacation benefits are unpaid wages if the employer says that they are (see <i>Arimizu v. Financial Sec. Ins. Co.</i>, 5 Haw. App. 106 (Haw. Ct. App. 1984)). Therefore, whether unused vacation must be compensated at termination depends upon what the employer has agreed to, whether explicitly or implicitly a terminated employee is entitled to payment for unused leave only if he or she can show an "express agreement or uniform custom" to that effect (see <i>Lim v. Motor Supply</i>, 364 P.2d 38).</p> <p>Employers are required to pay earned vacation and/or sick days upon separation if they have a policy, employment contract, or collective bargaining agreement requiring such pay. In 2010, the Legislature passed a law that makes it unlawful for any employer with more than 100 employees and a collective bargaining agreement to bar or discharge from employment, withhold pay from, or demote an employee solely because he uses accrued and available sick time.</p> <p><i>Citations:</i> <i>Casumpang v. ILWU Local 142</i>, No. 24508 (HI Sup. Ct., October 18, 2005); HI Rev. Stat. § 378-32.</p> <p><b>Public sector:</b> Public employees who leave voluntarily are entitled to all accumulated vacation pay up to and including the date of termination. If a public employee is fired or laid off for any reason other than for the person's own misconduct, the person is also entitled to all accumulated vacation pay.</p> <p><i>Citation:</i> HI Rev. Stat. § 79-7.</p>	Policy allowed.	All employers.

# State Law Chart Builder

Customizable employment law answers for HR

## Payout of Vacation/Sick Pay

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State	Requirements	"Use it or lose it" policy	Covered employers
ID	<p><b>Private sector:</b> Even where state law does not specifically require employers to pay out accrued vacation upon termination, a consistent practice, written policy, or contract promising such payment may create an enforceable legal obligation to do so. In such circumstances, earned vacation will generally be treated as wages pursuant to state wage payment and collection laws. <i>Citation: Whitlock v. Haney Seed</i>, 759 P.2d 919 (1986).</p> <p><b>Public sector:</b> Separated state-government employees are compensated for unused vacation leave at the time of separation to the extent of the maximum accruals and accumulations allowed. Separated state-government employees forfeit accrued sick leave and aren't reimbursed unless they return to credited state service within three years of separation. Employees who retire are compensated for unused sick leave with the lesser amount of one-half the monetary value of the unused sick leave or the maximum amount allowed. <i>Citations:</i> ID Code §§ 67-5333; 67-5334; 33-2109A; <i>Ferguson v. City of Orofino</i>, 953 P.2d 630, 636 (Idaho Ct. App. 1998); <i>Jackson v. Minidoka Irrigation District</i>, 563 P.2d 54, 59 (Idaho 1977).</p>	Accrued vacation is paid in accordance with an employer's policy.	Private employers and state government under various statutes.
IL	<p><b>Private sector:</b> If employment contracts or policies provide for paid vacation, the earned, unused portion must be paid to employees at their final rate of pay upon separation. <i>Citations:</i> 820 ILCS 115/5 and Ill. Admin. Code § 56-300.520.</p> <p><b>State government/Public sector:</b> The State Employee Vacation Time Act outlines how state employees' vacation time is computed. <i>Citation:</i> 5 ILCS 360/0.01 et seq.</p>	<p>Employers may cap vacation or require employees to use it by a certain date provided notice of the contract or policy provision and a reasonable opportunity to use it is given. In order to cap accrued vacation, vacation policies must state that vacation ceases to accrue after an employee's unused days reach a certain level. An employer cannot effectuate a forfeiture of earned vacation by a written employment policy or practice of the employer.</p> <p>The State Employee Vacation Time Act outlines how state employees' vacation time is computed. <i>Citation:</i> 5 ILCS 360/0.01 et seq.</p>	Private employers and state government under various statutes.

# State Law Chart Builder

Customizable employment law answers for HR

## Payout of Vacation/Sick Pay

- Does your state require employers to pay earned vacation and/or sick days upon separation? Is there a "use it or lose it" policy?

State	Requirements	"Use it or lose it" policy	Covered employers
IN	<p>The Indiana Court of Appeals has found that an agreement to give vacation pay to employees is considered a form of compensation for services just like hourly wages. Vacation pay is additional wages, earned weekly, where only the time of payment is deferred. As a result, paid vacations and similar paid time off accrues throughout the year and an employee is entitled to a pro rata share of his/her accrued, unused vacation pay upon termination. With respect to sick pay, Indiana law only requires that employers must pay employees for actual time worked. As a result, employers are not required to pay for sick days, personal days, or holidays unless the employees have been promised payment through the company's personnel policy or employment contract.</p> <p><i>Citation: See Die &amp; Mold, Inc. v. Western, 448 N.E.2d 44, 47-48 (Ind. Ct. App. 1983).</i></p>	<p>Employers who don't want vacation pay to accrue until the completion of a vacation year or who don't want to pay terminated employees for accrued, unused vacation pay must formulate clear, written vacation pay policies and ensure that they are publicized to employees.</p>	<p>All employers.</p>
IA	<p>The Iowa Wage Payment Collection Act's definition of "wages" includes compensation owed by employers for "vacation, holiday, sick leave, and severance payments which are due an employee under an agreement with the employer or under a policy of the employer." When employment is suspended or terminated, employers must pay all wages earned no later than the next regular payday. Employers may have a policy that states accrued but unused leave is forfeited upon termination of employment.</p> <p><i>Citation: Iowa Code §§ 91A.2 and 91A.4.</i></p>	<p>If vacations are due under an agreement or policy establishing pro rata vacation accrued, the increment must be in proportion to the fraction of the year that the employee was actually employed.</p> <p><i>Citation: Iowa Code § 91A.4.</i></p>	<p>All employers.</p>

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## Payout of Vacation/Sick Pay

- Does your state require employers to pay earned vacation and/or sick days upon separation? Is there a "use it or lose it" policy?

State	Requirements	"Use it or lose it" policy	Covered employers
KS	<p>Wages are defined to include earned vacation and/or sick pay pursuant to an employment contract. Thus, once vacation or sick pay is earned, it can't be forfeited. Employers may, however, define vacation or sick pay policies in such a way that the right to payment for vacation and sick time isn't earned until certain conditions (i.e., conditions precedent) are satisfied.</p> <p><i>Citations:</i> Kan. Stat. Ann. § 44-313 et seq.; <i>Dillard Dept. Stores, Inc. v. State Dept. of Human Resources</i>, 13 P.3d 358 (Kan. App. 2000); <i>Sweet v. Stormont Vail Reg'l Med. Ctr.</i>, 231 Kan. 604, 647 P.2d 1274 (1982).</p> <p>The Kansas Court of Appeals has also said that if the employer knowingly or willfully fails to pay an employee wages (which may include vacation pay), the employer is liable for damages of one percent of the unpaid wages for each day that the failure continues.</p> <p><i>Citation:</i> KS Stat. § 44-315.</p> <p>Employers must make available to employees, on request, a written summary of practices and policies regarding vacation pay, sick leave, and other benefits to which employees may be entitled. This notice may be given to employees individually or posted where employees will see it.</p> <p><i>Citation:</i> KS Stat. Ann. § 44-320.</p>	<p>Wages are defined to include earned vacation and/or sick pay pursuant to an employment contract. Thus, once vacation or sick pay is earned, it can't be forfeited. Employers may, however, define vacation or sick pay policies in such a way that the right to payment for vacation and sick time isn't earned until certain conditions are satisfied and, if properly drafted, a "use it or lose it" policy would be enforceable.</p> <p><i>Citation:</i> Kan. Stat. Ann. § 44-313 et seq.</p>	All employers.
KY	<p>Employers must pay along with other compensation due as wages any vested vacation pay and any other similar advantages agreed to by the employer and employee or provided to employees as an established policy. Employees who leave or are discharged must be paid in full not later than the next normal pay period following the date of dismissal or voluntary leaving or 14 days following dismissal or voluntary leaving, whichever last occurs. Any failure to comply with these regulations will result in a fine between \$100 and \$1000, with each failure to pay an employee the wages required by K.R.S. § 337.055 constituting a separate offense.</p> <p><i>Citations:</i> K.R.S. §§ 337.010(1)(c), 337.055, 337.990(3).</p>	No laws prohibit such policies.	All employers.

# State Law Chart Builder

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## Payout of Vacation/Sick Pay

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State	Requirements	"Use it or lose it" policy	Covered employers
LA	<p>Unused vacation is considered part of wages due employees upon separation. Payment for sick days isn't required. Courts have determined that vacation is deferred compensation (i.e., it's been earned), and sick leave is a benefit (i.e., not earned) that's available for use only when employees are sick and unable to work.</p> <p>Vacation pay will be considered an amount due only if, in accordance with the stated vacation policy of the person employing such laborer or other employee, both of the following apply: (a) the laborer or other employee is deemed eligible for and has accrued the right to take vacation time with pay and (b) the laborer or other employee has not taken or been compensated for the vacation time as of the date of the discharge or resignation.</p> <p><i>Citations:</i> La. Rev. Stat. Ann. §§ 23:631, 23:634, and 23:636; <i>Beard v. Summit Institute of Pulmonary Medicine</i>, 707 So.2d 1233 (La. Sup. Ct. 1998).</p>	<p>Written or other policies requiring the forfeiture of vacation pay that has actually been earned by the employee pursuant to the employer's policy are not enforceable. However, employers may implement policies requiring employees to use vacation by a certain date or else lose it. An employer may also cap the amount of vacation leave an employee may accrue over time.</p> <p><i>Citations:</i> <i>Wyatt v. Avoyelles Parish School Board</i>, 831 So.2d 906 (La. Sup. Ct. 2002); <i>Beard v. Summit Institute of Pulmonary Medicine</i>, 707 So.2d 1233 (La. Sup. Ct. 1998).</p>	All employers.
ME	<p><b>Private sector:</b> Payment of earned vacation and/or sick time is subject to individual written employer policies. Additionally, an employers with a paid vacation policy that sells a business must pay employees for accrued, unused vacation time, or obtain a specific agreement from the buyer to honor the seller's vacation policy.</p> <p><i>Citation:</i> 26 M.R.S.A. § 626.</p> <p><b>Public sector:</b> If vacation time is taken in advance, and the employee terminates before accrual, the employee must reimburse the employer for the time taken but not earned.</p> <p><i>Citation:</i> C.M.R. 18-389-011.</p>	<p>No laws prohibit such "use it or lose it" policies. However, Maine law does provide that "whenever the terms of employment include provisions for paid vacations, vacation pay on cessation of employment has the same status as wages earned."</p>	All employers.

# State Law Chart Builder

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## Payout of Vacation/Sick Pay

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State	Requirements	"Use it or lose it" policy	Covered employers
MD	<p><b>Private sector:</b> An employer is not required to pay accrued leave to an employee if: (1) the employer has a written policy that limits the compensation of accrued leave to employees; (2) the employer notified the employee of the employer's leave policy in accordance with statutory requirements; and (3) the employee is not entitled to payment for accrued leave at termination under the terms of the employer's written policy. <i>Citation:</i> Md. Code Ann., Labor &amp; Employment § 3-505.</p> <p><b>Public sector:</b> Under Maryland's Flexible Leave Act, covered employers that provide paid leave under a policy or collective bargaining agreement to allow employees to use their paid leave (sick, vacation, or compensatory time) for the illness of an immediate family member. <i>Citation:</i> Md. Code Ann., Labor &amp; Employment § 3-802.</p>	There is no provision for this topic in this state.	
MA	<p><b>Vacation:</b> All employees must be paid for earned but unused vacation upon separation. Employees who are involuntarily terminated or laid off must be paid all wages due and owing to them (including accrued, unused vacation) on the day of termination; employees who quit or resign may be paid on the next regularly scheduled pay period. <i>Citations:</i> Mass. Gen. Laws ch. 149 § 148; <i>Electronic Data Systems Corp. v. Attorney General</i>, 454 Mass., 63, 64, 69 (2009).</p> <p><b>Earned sick leave:</b> Employers in Massachusetts are not required to pay out accrued but unused sick leave at time of separation. They, however, may do so at their own option. <i>Citations:</i> Mass. Gen. Laws ch. 149, § 148, 148C; 940 C.M.R. 33.03 (28).</p>	<p>"Use it or lose it" vacation policies are authorized provided employees are given adequate advance notice of the policy and are given a reasonable opportunity to use their vacation. Under the earned sick leave statute, employees can carry over up to 40 hours of accrued but unused sick leave from one benefit year to the next. Employees, however, may not use more than 40 hours of earned sick leave in one benefit year. <i>Citation:</i> Advisory 1999/1. An advisory from the Attorney General's Fair Labor Division on Vacation Policies.</p>	<p><b>Vacation:</b> All employers.</p> <p><b>Earned sick leave:</b> Any public or private entity who engaged the services of an employee for wages, remuneration or other compensation, except: the United States government; cities, towns, and local public employers who have not accepted the law by vote or by appropriation as provided in the state Constitution.</p>



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## Payout of Vacation/Sick Pay

- Does your state require employers to pay earned vacation and/or sick days upon separation? Is there a "use it or lose it" policy?

State	Requirements	"Use it or lose it" policy	Covered employers
MN	<p>Employers must pay earned vacation time under the terms of any agreement with employees, such as a collective bargaining agreement or an employee handbook. The law defines "wage supplements" as including vacation pay (see Minn. Stat. § 181.74, subd. 2). When an employee leaves a job, the question of payment for vacation time will depend on what the employer has established as eligibility requirements for vacation. If the employee has satisfied the eligibility requirements and has accrued vacation, but has not used it, the employee must be paid for the time upon termination. The Minnesota Supreme Court held employees do not have a statutory right to receive payment of earned, but unused, vacation pay. The court concluded that vacation benefits are contractual in nature and the employer is free to place restrictions on the manner in which they accrue and are to be paid. Thus, this case implies that employers may draft vacation and sick time policies to control when employees earn the vacation and any payout eligibility requirements, and they may provide for maximum accrual as well (see <i>Lee v. Fresenius Med. Care, Inc.</i>, 741 N.W.2d 117 (Minn. 2007)). No statute covers sick days.</p> <p><i>Citations:</i> Minn. Stat. § 181.74, subd. 2.; <i>Lee v. Fresenius Med. Care, Inc.</i>, 741 N.W.2d 117 (Minn. 2007).</p>	<p>No laws prohibit such "use it or lose it" policies. See also <b>Requirements</b> section.</p>	<p>All employers.</p>
MS	<p><b>Private sector:</b> There is no requirement that private employers pay earned vacation and/or sick leave unless they have agreed to do so. The Mississippi Supreme Court has ruled that a promise of paid vacation time is contractual, and that unpaid accrued vacation must be compensated unless there is an express agreement that employees will not be paid for unused time.</p> <p><i>Citation:</i> <i>Fuselier, Ott &amp; McKee v. Moeller</i>, 507 So.2d 63 (1987).</p> <p><b>Public sector:</b> Public employers generally are required to pay some amount of earned sick and/or vacation upon retirement. The monetary and annual accrual rates are statutory</p> <p><i>Citations:</i> Miss. Code Ann. §§ 25-3-93, 25-3-95, and 37-7-307.</p>	<p>No laws prohibit such policies.</p>	

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State	Requirements	"Use it or lose it" policy	Covered employers
MI	Under Michigan law, an employer must pay fringe benefits, including vacation, according to the terms of the employer's written policy. If an employer's written policy states that accrued, unused vacation will be paid on termination, the employer must pay for the unused time when employment terminates. The written policy may not be changed retroactively with respect to fringe benefits already accrued by an employee. <i>Citation:</i> MI Stat. §§ 750.353a and 408.473.	No laws prohibit such "use it or lose it" policies. However, an employer must pay fringe benefits, including vacation, according to the terms of an employer's written policy. <i>Citations:</i> MI Stat. §§ 750.353a and 408.473.	All employers.
MO	The terms of payout on termination depend on the agreement between the parties. Specifically, Missouri courts have held that "the right to vacation pay upon termination of the employer-employee relationship is a contractual right. It may be the subject of the provisions of a written contract or it may be established by implied contract. Customs and usages may by implication become part of the parties' contract." <i>Citations:</i> <i>Webster Groves v. Institutional &amp; Pub. Em. U.</i> , 524 S.W.2d 162 (1975); <i>Hoffmeyer v. Davco Food, Inc.</i> , 803 S.W.2d 49 (1991).	No laws prohibit such policies.	All employers.
MT	Private-sector employers aren't required to provide vacation pay, but once vacation has been earned according to the employer's policy, it is then considered wages and is due and payable in the same manner as regular wages (see Attorney General Opinion 56, Volume 23). Case law establishes that an employer cannot require an employee to comply with specific requirements in order to receive accrued vacation leave upon separation from employment, such as giving timely notice or not being terminated. Employers aren't required to pay out severance pay, sick leave, or paid time off. <i>Citations:</i> Attorney General Opinion 56, Volume 23; <i>Langager v. Crazy Creek Products, Inc.</i> , 1998 MT 44, 954 P.2d 1169 (1998); <i>McConkey v. Flathead Electric Cooperative</i> , 330 Mont. 48, 125 P.3d 1121 (2005).	"Use it or lose it" policies are not permitted in Montana. However, caps or maximum accumulation amounts that effectively prevent additional vacation from accruing until existing time is spent can be instituted. Additionally, the Montana Supreme Court said that employers may place conditions on paid time off (PTO).	Private employers.

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- Does your state require employers to pay earned vacation and/or sick days upon separation? Is there a "use it or lose it" policy?

State	Requirements	"Use it or lose it" policy	Covered employers
NE	<p>Nebraska's statutory definition of "wages" is compensation for labor or services rendered by an employee, including fringe benefits, when previously agreed to and conditions stipulated have been met by the employee, whether the amount is determined on a time, task, fee, commission, or other basis. The statutory definition of "fringe benefits" includes vacation leave plans (see NE Rev. Stat. § 48-1229). Additionally, the Nebraska Supreme Court has ruled that promised vacation is a fringe benefit and that when an employee leaves a job, accrued but unused vacation time must be compensated.</p> <p><i>Citations:</i> NE Rev. Stat. § 48-122; <i>Suess v. Lee Sapp Leasing</i>, 229 Neb. 755, 761 (1988)).</p> <p>Paid leave, other than earned but unused vacation leave, is not required to be paid out at the time of separation unless the employer and employee, or the employer and a collective bargaining representative, have specifically agreed otherwise. However, where an employer combines paid vacation leave with other forms of paid leave, i.e. sick leave, under a policy providing for "paid time off" or PTO, such that there are no restrictions or conditions on an employee's ability to take PTO (i.e. all PTO could potentially be used for vacation), all PTO must be paid out upon termination.</p> <p><i>Citations:</i> Neb. Rev. Stat. § 48-1229(4); <i>Fisher v. PayFlex Systems, USA, Inc.</i>, and <i>Norton v. PayFlex Systems, USA, Inc.</i>, 285 Neb. 808 (May 3, 2013) (consolidated cases).</p>	<p>An employer cannot implement a "use it or lose it" vacation policy requiring employees to use their earned vacation leave by a set date or lose it. However, in lieu of a traditional "use it or lose it" policy, an employer may lawfully cap the number of vacation leave hours an employee can accrue. Employees should be given clear and fair advance notice of the cap and should have ample opportunity to use paid leave prior to reaching the accrual cap.</p> <p><i>Citations:</i> Neb. Rev. Stat. 48-1229(4); <i>Roseland v. Strategic Staff Management, Inc.</i>, 272 Neb. 434, 722 N.W.2d 499 (Neb. Sup. Ct. 2006).</p>	All employers.

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State	Requirements	"Use it or lose it" policy	Covered employers
NV	<p><b>Private sector:</b> Nevada law is silent on the subject of accrued vacation leave for private employers. Thus, an employer may lawfully establish a policy or enter into a contract denying employees payment for accrued vacation leave upon separation from employment. Such policy and/or contract must (a) explicitly state that the employer does not owe employees leave pay, or (b) explicitly state that employees give up their right to leave pay under certain conditions (e.g., employee does not provide two weeks' notice). When employers do promise their employees payment upon separation for unused vacation leave, then they are required to provide it. <i>Citations:</i> N.R.S. § 608; <i>Ringle v. Bruton</i>, 120 Nev. 82, 86 P.3d 1032 (2004).</p> <p><b>Public sector/State government:</b> State employees who retire or are terminated through no fault of their own are entitled to payment for unused sick leave based on their years of service. Beneficiaries of employees who die while in public employment are entitled to the payments. <i>Citation:</i> N.R.S. § 284.355.</p>	<p>Nevada employers may implement a "use-it-or-lose-it" policy requiring employees to use their accrued vacation leave by a set date or lose it. Employers may also place a cap on the amount of vacation time an employee may accrue.</p>	<p>State government.</p>
NH	<p>Vacation pay, severance pay, personal days, holiday pay, sick pay, and payment of employee expenses—when such benefits are a matter of employment practice or policy—are considered wages when due. They must be paid upon separation when an employer has a practice or policy of doing so. Employers must make available to employees, in writing or through a posted notice, maintained in an accessible place, employment practices and policies with regard to vacation pay, sick leave, and other fringe benefits. <i>Citations:</i> N.H. Rev. Stat. Ann. §§ 275:42, III, 275:43, V, 275:49, III; N.H. Admin. Rules Lab. 803.03; <i>Jason DuBois v. Goodyear Tire and Rubber</i>, Case No. 4559 (N.H. D.O.L. June 6, 2013).</p>	<p>Employers may adopt "use it or lose it" policies provided employees are provided with a written or posted detailed description of the policy. <i>Citations:</i> N.H. Rev. Stat. Ann. § 275:49, III and N.H. Admin. Rules Lab. 803.03.</p>	<p>All employers.</p>

# State Law Chart Builder

Customizable employment law answers for HR

## Payout of Vacation/Sick Pay

- Does your state require employers to pay earned vacation and/or sick days upon separation? Is there a "use it or lose it" policy?

State	Requirements	"Use it or lose it" policy	Covered employers
NJ	Employers are not required to pay vacation and/or sick days upon separation unless they maintain a policy or are otherwise contractually bound to pay accrued, but unused, vacation and/or sick days upon separation. <i>Citation: Chrin v. Cambridge Hydrodynamics, Inc.</i> , No. A-3610-02T5, 2003 N.J. Super. Unpub. LEXIS 12 (App. Div. Dec. 30, 2003).	In New Jersey, whether an employer may decline to pay available but unused vacation and/or sick days under a "use it or lose it" policy is a matter of contract law.	There is no provision for this topic in this state.
NM	No statute or regulation addresses the issue, but employer policies may form implied contracts requiring payment. <i>Citation: New Mexico State Labor &amp; Indus. Comm'n v. Deming Nat'l Bank</i> , 96 N.M. 673, 634 P.2d 695 (1981).	No laws prohibit such "use it or lose it" policies, and they may be enforced under principles of contract law.	There is no provision for this topic in this state.
NY	If conditions and the notice of forfeiture are not given to employees in writing and an employee has earned vacation time, the employer must pay it. Employers are not required to pay employees for sick leave upon separation of employment. Employers must also notify employees, in writing or by conspicuously posting, of the policies on sick leave, vacation, personal leave, holidays, and hours. If an employee resigns, retires, is terminated, or is otherwise separated from employment, an employer is not required to pay the employee for unused safe/sick leave. <i>Citations: Glenville Gage Co., Inc. v. Industrial Board of Appeals</i> , 70 A.D.2d 283 (3d Dep't 1979); NY Labor Law Sec. 195, § 198-c.	No laws prohibit such "use it or lose it" policies. <i>Citation: Glenville Gage Co., Inc. v. Industrial Board of Appeals</i> , 70 A.D.2d 283 (3d Dep't 1979).	Private employers.
NC	If the policy is silent on the issue, vacation must be paid out at the end of employment. Employers are required to provide advance written notice in their policies and procedures of the basis for forfeiture of vacation time upon separation. <i>Citations: N.C. Gen. Stat. §§ 95-25.12 and 95-25.13.</i>	If the policy is silent on the issue, vacation must be paid out at the end of employment. Employers are required to provide advance written notice in their policies and procedures of the basis for forfeiture of vacation time upon separation. <i>Citations: N.C. Gen. Stat. §§ 95-25.12 and 95-25.13.</i>	All employers.

# State Law Chart Builder

Customizable employment law answers for HR

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State	Requirements	"Use it or lose it" policy	Covered employers
ND	<p><b>Private sector:</b> If an employee separates from employment voluntarily, an employer may withhold payment for accrued paid time off (PTO) if, at the time of hiring: (a) the employer provided the employee written notice of the limitation on payment of accrued PTO; (b) the employee has been employed by the employer for less than 1 year; and (c) the employee gave the employer less than 5 days' written or verbal notice. If all of these requirements are not met, employers are required to pay employees for all paid time off earned or awarded at the time of termination. No employment contract or policy may provide for forfeiture of that right.</p> <p>An employer will no longer be required to compensate employees for unused PTO or vacation time "awarded" by the employer but not yet "earned" by the employee if the company has a written policy limiting PTO payouts upon termination. Although the terms "awarded" and "earned" aren't defined in the statute, an employer with a carefully drafted policy could presumably "award" all PTO (or a portion of the amount earned for the year) in January but require that it be "earned" at a certain rate throughout the year. Under such a policy, employees could take PTO as needed, but the employer wouldn't be stuck paying for unearned PTO at the time of termination. <i>Citations:</i> N.D.C.C. § 34-14-09.2; N.D.A.C. § 46-02-07-02.</p> <p><b>Public sector:</b> At termination, employees must be paid of all accrued, unused vacation time. <i>Citation:</i> N.D.C.C. § 54-06-14.</p>	<p>Employers are allowed to have employment contracts or policies that require employees to take vacation by a certain date or lose it. Employees have to be given a reasonable opportunity to take the time, and the employer must demonstrate that the employee had notice of the contract or policy.</p>	

# State Law Chart Builder

Customizable employment law answers for HR

## Payout of Vacation/Sick Pay

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State	Requirements	"Use it or lose it" policy	Covered employers
OH	<p><b>Private sector:</b> There is no Ohio law addressing this issue for private employers. However, Ohio is a "contract" state in which employers are required to follow the terms contained in their employee handbooks and/or their policies governing payout of vacation leave, sick leave, and other paid leave upon separation of employment, or other agreements. Vacation must be paid out at the end of employment if the policy is silent on the matter (see <i>Fridrich v. Seuffert Construction Co.</i>, 2006 Ohio 1076 (OH App. 2006)). Failure to pay out leave time in accordance with the handbook, policies, or an agreement can lead to a claim for breach of contract or a claim of failure to pay wages in accordance with Ohio's wage payment statute, Ohio Rev. Code § 4113.15. Ohio courts have ruled that, in order to be compensated for earned vacation time at termination, an employee must earn the time exactly according to the employer's vacation accrual policy. If the policy says: "Vacation time will be accrued from anniversary to anniversary date," the employee must complete the anniversary year and be working on the anniversary date in order to be eligible for vacation pay at termination.</p> <p><i>Citations:</i> Ohio Rev. Code § 4113.15; <i>Fridrich v. Seuffert Construction Co.</i>, 2006 Ohio 1076 (OH App. 2006); <i>Momchilov v. Astro Metallurgical Corp.</i>, 1994 Ohio App. LEXIS 4995 (Ohio Ct. App., Wayne County Oct. 26, 1994).</p> <p><b>Public sector/State government:</b> State government employees are entitled to convert accumulated sick and personal leave to cash benefits upon their separation from service as set forth in the Ohio Revised Code and the Ohio Administrative Code.</p> <p><i>Citations:</i> Ohio Rev. Code §§ 124.13, 124.134, 124.382(B), 124.384(A), 124.386(D), and 124.39; Ohio Admin. Code § 123: 1-32-09.</p>	No laws prohibit such policies.	Private sector and Public sector/State government under various statutes.

# State Law Chart Builder

Customizable employment law answers for HR

## Payout of Vacation/Sick Pay

- Does your state require employers to pay earned vacation and/or sick days upon separation? Is there a "use it or lose it" policy?

State	Requirements	"Use it or lose it" policy	Covered employers
OK	<p>Oklahoma law requires an employer to pay an employee's wages in full at termination, and defines "wages" to include compensation owed by an employer to an employee for labor or services rendered, including salaries, commissions, holiday and vacation pay, overtime pay, severance or dismissal pay, bonuses, and other similar advantages agreed on between the employer and the employee that are earned and due. While sick pay is not an enumerated wage under state law, it is recognized by regulation as a wage. Vacation and sick pay are payable as a wage when terminating employment only if the payment is: (a) agreed on between the employer and employee or (b) provided to the employee by established policy.</p> <p>If an employee grants paid vacation and provides or promises to provide payment of cash in lieu of time off for unused but earned time, an employee who leaves the payroll must be paid for such time.</p> <p><i>Citations:</i> Okla. Stat. Title 40 § 165.1(4); Okla. Adm. Code 380:30-1-5; OK Stat. Tit. 40 § 165.3; <i>Biggs v. Surrey</i>, 811 P.2d 11 (1991).</p>	<p>No laws prohibit such "use it or lose it" policies. Department of Labor regulations permit employers and employees to enter into private agreements to impose conditions on which such pay may be paid.</p>	<p>All employers.</p>
OR	<p>Vacation pay, holiday pay, bonuses, sick leave, and severance pay are examples of wage agreements that may be made between employers and employees. However, there is no requirement that employers offer them. Employers are required to honor any established policy or agreement relating to the payment of benefits such as accrued vacation pay upon termination. Vacation must be paid out at the end of employment if an employer's policy is silent on the matter.</p> <p>Oregon courts have ruled that vacation that has been "contracted for" (promised in writing, orally, or consistently provided) is considered to be "wages." If such time is not compensated, the employee may file a complaint with the Department of Labor and Industries that may result in financial penalties, attorney's fees, and court costs.</p> <p><i>Citations:</i> OR Rev. Stat. § 652.140; <i>State ex rel. Roberts v. Public Fin. Co.</i>, 662 P.2d 330 (1983)).</p>	<p>No laws prohibit such policies.</p>	<p>There is no provision for this topic in this state.</p>



# State Law Chart Builder

Customizable employment law answers for HR

## Payout of Vacation/Sick Pay

- Does your state require employers to pay earned vacation and/or sick days upon separation? Is there a "use it or lose it" policy?

State	Requirements	"Use it or lose it" policy	Covered employers
PA	Employers are free to create their own policies, but must follow them once they are in place. Pennsylvania law defines "wages" as including all earnings of an employee, including fringe benefits. Any promised vacation time is defined under the law as a fringe benefit. An employer that has agreed to pay for vacation must pay for earned, unused time within 10 days of the person's termination or within 60 days of when the employee makes a claim for the pay. <i>Citations:</i> PA Stat. Ch. 43 § 260.2a to § 260.9; <i>Ressler v. Jones Motor Co.</i> , 487 A.2d 424 (1985).		There is no provision for this topic in this state.
RI	Rhode Island law explicitly states that when an employer terminates an employee and the employee has completed at least 1 year of service, any vacation pay accrued according to policy or any other agreement is considered wages and must be paid by the next regular payday. There is no comparable statute for sick time. <i>Citation:</i> RI Gen. Laws § 28-14-4(b) et seq.	The issue isn't directly addressed by state law, but given the requirement that employees who have completed one year of service can't lose accrued vacation time and the lack of a statute on sick time, "use it or lose it" policies would likely be permissible for sick leave.	All employers.
SC	No state law requires private employers to compensate their employees for vacation and/or sick pay at the termination of the employment relationship, but employers must follow their policies concerning payment for unused vacation and/or sick leave at the conclusion of the employment relationship since the term "wages" includes vacation, holiday, and sick leave payments that are due to employees under any policy or employment contract.	Employers must follow their policies and can therefore require employees to "use or lose" their vacation and/or sick leave.	There is no provision for this topic in this state.

# State Law Chart Builder

Customizable employment law answers for HR

## Payout of Vacation/Sick Pay

- Does your state require employers to pay earned vacation and/or sick days upon separation? Is there a "use it or lose it" policy?

State	Requirements	"Use it or lose it" policy	Covered employers
SD	<p><b>Private sector:</b> No state law requires private employers to compensate their employees for vacation and/or sick pay at the termination of the relationship, but employers are advised to follow their policies concerning payment for unused vacation and/or sick leave. Specific language in a handbook, which describes in detail employee compensation and fringe benefits, may be considered a contract.</p> <p><b>Public sector/State government:</b> State government must allow employees to end their employment at the end of unused vacation time or receive a lump-sum payment for unused vacation time. Also, state employees who have been continuously employed by the state for at least seven years before retirement, voluntary resignation, layoff, termination for inability to perform job functions because of physical disability, or death are to be paid one-fourth of their unused sick time with such payment not exceeding 480 hours. Payment is made in a lump sum with the employee's last paycheck. <i>Citations:</i> SDCL § 3-6C-6, § 3-6C-12. <i>Lau v. Behr Heat Transfer System, Inc.</i>, 150 F.Supp.2d 1017 (D.S.D. 2001) (short-term disability benefits); <i>Meyers v. American States Ins. Co.</i>, 926 F.Supp. 904, 912 (D.S.D.1996) (reduction in force policy).</p>		
TN	<p>Tennessee law provides that unless the employer's policy or labor agreement specifically requires compensation of unused "vacation pay or other compensable time" to an employee upon his or her termination of employment, it is not required that an employee's final wages include such compensation. <i>Citation:</i> Tenn. Code Ann. § 50-2-103.</p>	<p>Vacation pay or other compensatory time must be paid according to company policy or labor agreement.</p>	<p>Private employers with at least five employees.</p>

# State Law Chart Builder

Customizable employment law answers for HR

## Payout of Vacation/Sick Pay

- Does your state require employers to pay earned vacation and/or sick days upon separation? Is there a "use it or lose it" policy?

State	Requirements	"Use it or lose it" policy	Covered employers
TX	<p><b>Private sector:</b> Texas wage law defines "wages" as compensation owed by an employer for labor or services given by an employee, as well as vacation pay and sick leave pay, or severance pay owed to an employee under a written agreement with the employer or under a written policy of the employer. When an employee leaves the job, the question of payment for vacation time depends upon what the employer has promised. So if vacation is provided or promised, an employee who leaves the payroll must be paid for accrued but unused time. <i>Citation:</i> TX Lab. Code § 61.001(7)(B).</p> <p><b>Public sector:</b> A state employee who has accrued six months of continuous state employment and resigns, is dismissed, or is otherwise separated from state employment other than an institution of higher education is entitled to be paid the accrued balance of the employee's vacation time as of the date of separation if the employee is not reemployed by the state during the 30-day period following separation from state employment. If the employee separates from state employment by an institution of higher education, the employee is entitled to be paid the accrued balance of the employee's vacation time as of the date of separation. A firefighter or police officer in a municipality with a population of at least 1.5 million who leaves the classified service for any reason is entitled to receive in a lump-sum payment the full amount of the firefighter's or police officer's accumulated sick leave as provided in the Local Government Code. <i>Citations:</i> Tex. Government Code § 661.062(a); Tex. Local Government Code § 143.116(a); <i>Brown v. Sabre, Inc.</i>, 173 SW 3d 581 (Tex. App.-Ft. Worth 2005, no pet. h.).</p>	No state laws prohibit such "use it or lose it policies" in the private sector. Any vested interest or right concerning accrued vacation pay must be determined from the terms of the contract of employment or company policy. However, where the contract or policy includes language that the policy may be modified at any time, the policy does not create a contractual obligation to pay the separating employee for unused vacation time.	Private sector and public sector (state and certain local governments) under various statutes.

# State Law Chart Builder

Customizable employment law answers for HR

## Payout of Vacation/Sick Pay

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State	Requirements	"Use it or lose it" policy	Covered employers
UT	<p><b>Private sector:</b> Payment is required only if required by a contract between employer and employee. Private employers must pay all "unpaid wages" within 24 hours for involuntary separation and on the next regular payday for resignations. <i>Citations:</i> UT Code §§ 34-28-1, 34-28-2(1), and 34-28-5(1).</p> <p><b>Public sector:</b> An employee separating from state service must be paid in a lump sum for all accrued and unused vacation time <i>Citation:</i> UT Admin. Code § R477-7-1.</p>		Private sector except for those, including farming, agricultural pursuits, household domestic service, or other employment in which an agreement exists between employee and employer providing different terms. Public sector under various statutes.
VT	<p>Employers are required to pay earned vacation and/or sick days upon separation only if there's an agreement between the employer and employee to make such payments. In other words, if the contract (whether express or implied) entitles employees to no more than the salary as stated and doesn't promise vacation pay at termination for unused, earned vacation, it is not owed. <i>Citations:</i> 21 V.S.A. § 1344(a)(5)(B); <i>Grady v. Union School District No. 32</i>, 367 A.2d 690 (Vt. 1976); See also <a href="http://labor.vermont.gov/unemployment-insurance/wage-hour/wage-and-hour-fair-labor-practices-frequently-asked-questions/">http://labor.vermont.gov/unemployment-insurance/wage-hour/wage-and-hour-fair-labor-practices-frequently-asked-questions/</a>.</p>	<p>Eligible employees are entitled to accrue 1 hour of sick leave for every 52 hours worked. Employers may limit an employee's accrual and use of sick time to 40 hours in a 12-month period. Employees generally must be permitted to carry over accrued and unused sick time from one year to the next, but employers may limit an employee's use of accrued sick time in accordance with the caps described above. Employers may choose to pay an employee for unused sick time in lieu of permitting carry over. If an employer already has a combined time off policy under which employees may use earned sick time off for vacation, sickness, or personal reasons, the employer does not need to provide additional paid sick time as long as the policy provides combined time off that is equivalent to the time off described in the statute. <i>Citation:</i> H. 187 (2016).</p>	All employers.
VA	<p>Virginia courts have ruled that vacation that is part of a contract must be compensated at termination of the employment relationship. On the other hand, Virginia courts are conservative in their interpretation of what constitutes an "implied contract." Further, if vacation is consistently provided or promised, there is certainly a possibility that an employee who leaves the payroll may be owed pay for accrued but unused time.</p>	There is no provision for this topic in this state.	There is no provision for this topic in this state.

# State Law Chart Builder

Customizable employment law answers for HR

## Payout of Vacation/Sick Pay

- Does your state require employers to pay earned vacation and/or sick days upon separation? Is there a "use it or lose it" policy?

State	Requirements	"Use it or lose it" policy	Covered employers
WA	<p><b>Private sector:</b> A Washington court held that an employee who has accrued vacation at the time of termination, as a result of his own decision to forgo vacation, isn't entitled to vacation pay in the absence of any contractual provision to the contrary. Nor is there any statutory right to unused sick leave. Unused vacation and sick leave time don't qualify as "wages" under state law. Therefore, employers aren't required to pay employees for vacation or sick time that's earned but not used unless they have a contract or policy that says they will or allows employees to claim the cash value of unused time. Employers should have a policy that clearly states whether they do or don't allow pay in lieu of unused vacation and sick time.</p> <p><i>Citations: <b>Vacation time:</b> <i>Walters v. Center Elec., Inc.</i>, 8 Wn. App. 322 (1973). <b>Sick time:</b> <i>Teamsters, Local 117 v. Northwest Beverages, Inc.</i>, 95 Wn. App. 767 (1999).</i></p> <p><b>Public sector:</b> After 6 months of continuous work, full-time state employees must receive 1 working day per month, with an additional day for each year after satisfactory completion of the first, second, third, and fifth continuous years of employment. Generally, employees may accrue up to 30 days, but this cap may be relaxed under certain circumstances. State employees whose employment is terminated must be paid for their accrued vacation time; in case of death, the employee's estate must be paid.</p> <p><i>Citation: WA Rev. Code § 43.01.040 et seq.</i></p>	"Use it or lose it" policies are allowed.	All employers.

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State	Requirements	"Use it or lose it" policy	Covered employers
WV	<p>Upon separation, employers must pay any "accrued fringe benefits capable of calculation" directly to employees. That may include vacation and sick leave, but employers may decide whether sick and vacation leave are payable to an employee upon separation. The West Virginia Supreme Court of Appeals has held that "[w]here there is no provision in a written employment agreement, personnel handbook, personnel policy materials, or employer documents granting employees payment for unused, accumulated sick leave upon termination from employment, the unused, accumulated sick leave, upon termination from employment, is not a vested, nonforfeitable fringe benefit under the West Virginia Wage Payment and Collection Act and is not payable to the employees." Although the court's holding did not expressly extend to vacation benefits, it is likely that the same analysis would apply. Thus, absent a written or unwritten policy that supports providing vacation and sick benefits to employees at the time of their separation, or an ambiguous policy construed in favor of employees with regard to the provision of vacation and sick benefits at the time of separation, employees likely will not be entitled to such benefits upon termination of their employment.</p> <p><i>Citations:</i> W. Va. Code §§ 21-5-1 et seq.; <i>Wolfe v. Adkins</i>, 229 W. Va. 31, 725 S.E.2d 200 (2011); <i>Isaacs v. Bonner</i>, 225 W. Va. 460, 694 S.E.2d 302 (2010) (per curiam).</p>		All employers.
WI	<p>Employers are required to pay earned vacation upon separation unless employment policies provide otherwise. Although its view is not dispositive, the Wisconsin Department of Workforce Development (DWD) generally takes the position that unused vacation and paid-time-off (PTO) benefits, but not sick pay, are presumptively vested benefits that must be paid at the time of termination, absent language in an employer's personnel policy to the contrary. Employers should clearly state in their personnel policies whether such unused benefits will be paid or waived on termination of employment to minimize the litigation risks associated with claims for such wages.</p>	<p>Employers may implement a "use it or lose it" policy if it is communicated to employees in writing in advance and if the employer can show that it has a well-established policy and practice.</p>	There is no provision for this topic in this state.

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State	Requirements	"Use it or lose it" policy	Covered employers
WY	<p>Under Wyoming state law, "wages" means compensation, including fringe benefits, but does not include the value of vacation leave accrued at the date of termination so long as the employer's written policies provide that accrued vacation is forfeited on termination, and the written policies are acknowledged in writing by the employee. Employers wishing to avoid payment of accrued vacation at termination must do so by clear, written policy, with a signed acknowledgment by each employee. If an employer does not have such a policy, earned and unused vacation must be paid within five working days of the date of termination. Employers may provide that unused sick days won't be paid upon termination of employment.</p> <p><i>Citations:</i> Wyo. Stat. § 27-4-501 et seq. and Wyo. Stat. § 27-4-104.</p>	<p>Although state law doesn't require employers to provide paid vacation, if it is provided and the employer has no written, acknowledged policy regarding forfeiture of accrued vacation, accrued vacation can't be lost upon termination. Sick days not taken aren't required to be paid.</p>	<p>All employers.</p>